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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,574

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Sebastien Perrot

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24498

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Robert D. Shedd, Patent Operations

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EXAMINER

RUTKOWSKI, JEFFREY M

ART UNIT

PAPER NUMBER

2473

MAIL DATE

DELIVERY MODE

12/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,574

Applicant(s)

PERROT ET AL.

Examiner

JEFFREY M. RUTKOWSKI

Art Unit

2473

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim 8 has been cancelled.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/18/2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1-3, 6 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa et al. ("Frame Transfer Protocol with Shortcut between Wireless Bridges"), hereinafter

referred to as Ichikawa, in view of Hart ("Extending the IEEE 802.1 MAC Bridge Standard to Remote Bridges") and Mahajan et al. (US Pat 6,628,624), hereinafter referred to as Mahajan.

5. For **claims 1 and 9**, Ichikawa teaches a wireless bridging network that makes use of Transparent Bridging Protocol (TBP) in a wireless network [**page 1705, Section I and page 1706, figure 2**]. TBP makes use of Spanning Tree Protocol (STP) to establish a network tree [**page 1705, Section II, 2nd paragraph**]. Ichikawa's wireless bridges have an interface connected to a wired network (first interface) as well as an interface (second interface) connected a wireless network [**page 1706 figure 2**]. Each node in Ichikawa's invention maintains its own filtering database Ichikawa suggests the use of a microprocessor means [**figure 2**].

6. Ichikawa discloses each AP has a constant number of wired ports but a variable number of wireless ports [**figure 6**]. For example, AP-5 has two wireless ports while the other APs have three wireless ports. From figure 6, any difference in the number of ports among the APs is based upon the number of wireless ports. Ichikawa does not disclose a root (parent) election procedure that is based on the number of ports of a bridge. Hart discloses a root (parent) selection technique where the bridge which has the most ports is elected root [**page 13, 1st paragraph, left column**]. Figure 3 of Hart shows the spanning tree that is formed after the root (parent) bridge is elected [**page 13**]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use Hart's root election procedure in Ichikawa's invention to not force a customer to have to assign a priority value [**page 13, 1st paragraph, left column**].

7. The combination of Ichikawa and Hart disclose a root election process that is based upon a number of bridge ports. The combination of Ichikawa and Hart does not disclose the types of ports are considered as part of the spanning tree. Mahajan discloses it is well-known in the art

that administratively disabled ports are excluded from the spanning tree [**col. 2 lines 38-40**].

Since active and inactive ports are not administratively disabled, it would have been obvious to a person of ordinary skill in the art at the time of the invention to take into consideration the number of active and inactive ports in Ichikawa's invention because the Spanning Tree Protocol (STP) considers all enabled ports as part of the spanning tree.

8. Specifically for **claim 1**, Ichikawa discloses *wireless ports adapted to directly connect other wireless devices* (figure 4 shows the wireless devices are directly connected via full mesh network topology; see page 1707). The combination of Ichikawa and Hart discloses *directly connecting each other bridge portals to a wireless ports of the elected parent portal* (figure 4 of Ichikawa shows a full mesh topology where each bridge portal is directly connected via full mesh topology; see page 1707. Hart discloses connecting bridge portals to elected parent portals; see page 13 figures 3-4).

9. For **claim 2**, in Ichikawa's invention the number of physical and virtual ports is limited to the number of ports needed to interconnect LANs via wireless mesh [**figure 2**]. The respective number of ports are configurable according to the number of LANs needed to interconnect and the number of wireless interfaces that make-up the mesh. For example, it is well-known in the art that a wireless bridge can have more than one physical port so that more than one LAN can use the same wireless bridge.

10. For **claim 3**, Ichikawa does not disclose an elected portal being root on a local bus. Hart discloses a root that is the only portal on a bus [**page 13, figure 3**]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use Hart's topology in

Ichikawa's invention to increase the Quality of Service (QoS) provided by remote bridges [page 10, Introduction].

11. For **claim 6**, Ichikawa does not disclose an invalid topology. Mahajan discloses STP is used to eliminate loops (invalid topology) in a network by placing ports in a blocking state [col. 2 lines 13-40]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to reject new portals to prevent an invalid topology in Ichikawa's invention to prevent loops from being formed in the network.

12. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa in view of Hart and Mahajan, as applied to **claim 1** above, and further in view of IEEE Standard 802.1w.

13. For **claim 4**, which depends from **claim 1**, the combination of Ichikawa, Hart and Mahajan do not teach a new root (parent) bridge is elected when a new bridge portal is ATTACHED to the spanning tree network. The IEEE Standard 802.1w teaches a new bridge to a spanning tree can result in the changing of port roles in all or part of a network [page 35, final paragraph]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to elect a new root (parent) bridge in Meier's invention since the new bridge may have better connectivity (i.e. access to more bandwidth) than the previous root bridge.

14. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa in view of Hart, Mahajan and IEEE Standard 802.1w as applied to **claim 4** above, and further in view of Moriya (US Pg Pub 2002/0027887).

For **claim 5**, which depends from **claim 4**, the combination of Ichikawa, Hart, Mahajan and IEEE Standard 802.1w disclose the election of a root (parent) portal. The combination of Hart, Mahajan, Suzuki and IEEE Standard 802.1w does not teach verifying a free virtual port. Moriya

teaches a health check function that checks to see if other nodes are connected to an unused port [0077]. It would have been obvious to a person of ordinary skill in the art at the time of the invention verify an open port in Meier's invention to make sure the bridge has enough resources to handle the new portal.

15. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa in view of Hart and Mahajan, as applied to **claim 1** above, and further in view of Meier (WO 95/12942).

16. The combination of Ichikawa, Hart and Mahajan does not disclose storing the source of an alert. Meier teaches if a parent cannot contact a child node, the parent node marks a table entry for the child node as UNATTACHED, adds an alert for the child to node to an alert list (failure cause of a portal to a parent portal) and sends an alert request to the root [page 45, 2nd paragraph]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to store the source of an alert in a node in Suzuki's invention to provide information that can be examined to find the cause of a network failure.

Response to Arguments

17. The arguments with respect to Hart not disclosing a topology where all bridges are connected to the root bridge are not persuasive because the arguments are based on piecemeal analysis. Ichikawa discloses an architecture where all bridges are connected to the root bridge via full mesh topology (see page 1707 figure 4). Also, figure 3 of Hart shows there are at least two bridges Bridge A (root bridge) and Bridge B that are directly connected.

18. The arguments with respect to neither Ichikawa or Hart not suggesting the bridge with the most wireless ports is elected as the root because, according to Ichikawa and Hart, the wired ports also have to be taken into consideration when electing a root are not persuasive. Since the

claim uses an open-ended "comprising" transitional phrase, the claim scope does not exclude the wired ports from being taken into consideration. The claims do require the bridge with the most wireless ports be the root. Figure 6 of Ichikawa does show wireless bridges where the only difference between the bridges is the number of wireless ports that each bridge supports. Hart's figure 3 shows Bridge A (root bridge) has the most ports, seven total, that connect to the other bridges and was elected to be the root. The combination of Ichikawa and Hart does suggest electing the bridge with the most wireless ports root.

19. The arguments with respect to there being no reason to rely on the number of wireless ports are not persuasive. Hart discloses that if there are an equal number of ports, then the bridge with the smallest station address value is chosen (page 13 left column 1st paragraph). Even though AP-1 to AP-4 in Ichikawa's invention have the same number of ports, the address of each bridge would be used to elect one of the AP-1 to AP-4 root. Additionally, the claims do not require the portal be elected root based only on the number of wireless ports. The claims only require the bridge with the most wireless ports be elected root.

20. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

21. Applicant's arguments filed 09/18/2009 have been fully considered but they are not persuasive, for the reasons stated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY M. RUTKOWSKI whose telephone number is (571)270-1215. The examiner can normally be reached on Monday - Friday 7:30-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey M Rutkowski/
Examiner, Art Unit 2473

/KWANG B. YAO/
Supervisory Patent Examiner, Art Unit 2473